UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,216	10/30/2003	Kevin D. Beauford	LUC-447/Beauford 1	9777

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EXAMINER
D AGOSTA, STEPHEN M

ART UNIT	PAPER NUMBER
2617	

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>10 March 2006</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-7 and 9-19</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) <u>19</u> is/are allowed.

6)☒ Claim(s) <u>1,2,5,6,10,13,15,17,18 and 20</u> is/are rejected.

7)☒ Claim(s) <u>3,4,7,9,11,12,14 and 16</u> is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

The examiner has reconsidered the amended claims and has put forth a new

rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

Claims 1, 13, 15, 17-18 and 20 rejected under 35 U.S.C. 112, second

paragraph, as being indefinite for failing to particularly point out and distinctly claim the

subject matter which applicant regards as the invention.

The statement "wherein the call control component determines to not update a

billing record associated with the call based on the answer message from the

announcement server component" can be broadly interpreted (and thus have multiple

meanings). When it says "based on the answer message", that can be interpreted as

the ringback tone and/or the answer message that indicates whether the called user has

picked up their phone to receive the call.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-2, 5-6, 13, 15, 17-18 and 20 rejected under 35 U.S.C. 103(a) as being

unpatentable over Birze US 5,926,537 and further in view of Applicant's Specification,

#10-697216 and Burd et al. US 5,432,845 and Nolting US 2001/0028706.

As per **claims 1-2, 5-6, 13, 15, 17-18 and 20,** Birze teaches an apparatus,

comprising:

a call control component that sets a call category for a call to indicate that the call

terminates at an announcement server component prior to connection with a called

communication device, and generic "call category", eg. knowing that the caller should

receive a special ringtone, see (C4, L43 to C5, L19),

but is silent on

wherein upon receipt of an answer message from the announcement server

component, the call control component drops the answer message based on the call

category,

wherein the call control component determines to not update a billing record

associated with the call based on the answer message from the announcement server

component.

Applicant's specification, #10-697216, discloses (pages 1-2):

".....When involved on the call to provide an announcement, some announcement server

components send answer messages to a call control component that supports the call and controls

billing for the call.

Upon receipt of answer messages, the call control component initiates billing for the call.

For example, based on International Telecommunication Union (ITU-T") Q.764 and American

National Standards Institute (EWNSI") T1.1 13 standards, billing shall begin upon reception of

an answer message, for example, a signaling system 7 (SS7") Answer message.

However, billing should not occur during an announcement or ringback tone phase of the

call. As one shortcoming, if the announcement server component sends an answer message to

the call control component, then the call control component may initiate billing for the call based

on the answer message from the announcement server component. As another shortcoming,

initiation of billing based on the answer message from the announcement server component

causes billing during the announcement or ringback tone phase of the call.

One communication system that serves to prevent billing during the announcement or

ringback tone phase employs a recent change mechanism to drop the answer message from

the announcement server component. For example, the communication system activates the

recent change mechanism for specific carrier trunks connected to the announcement server

component. ne recent change mechanisms in one example are individually set by customer

support on the carrier trunks connected to the announcement server component.

The examiner notes that this disclosure is prior art, since it is located in the

Background section of the specification. Therefore, the teaching shows that it is known

in the art to *drop the answer message from the announcement server component.* Birze

teaches a "call category" since he equates an incoming call to a certain person and

sends the appropriate ringback tone.

The concept of being billed for a call that is connected is well known in the art.

Nolte teaches sending an Answer Message when the phone is picked up:

As soon as the phone is answered at EO4, 204 sends an

Answer Message (ANS) back to EO2 indicating that the phone at

EO4 was picked up, and at that time the trunks are connected

together. EO2 connects its user to that trunk and EO4 connects

its user to that trunk so that communication is established. All

such messaging may occur in about 600 milliseconds which would

be average but not necessarily fast. (Para 96). Hence it is obvious

that no billing occurs if the call is not picked up.

Furthermore, **Burd** teaches a billing process whereby a bill is charged if/when the call is connected and terminated:

"...Briefly, when the call is answered by the target party, network switch 115 receives answer supervision from terminating switch 119 in step 702, triggering elapsed time recording which begins in step 703. When the call is later terminated in step 704, this triggers elapsed time recording to be stopped, and the billing record is closed in step 705. The record can the be forwarded conventionally for further bill preparation and processing...". (C11, L12-25). Again, no billing occurs if the call is not picked up.

**With further regard to claims 15 and 17,** Birze teaches call announcement special functions/steps as outlined above.

**With further regard to claim 18,** Birze teaches call announcement special functions/steps as outlined above while Nolting and Burd teach billing for a call when it is answered.

It would have been obvious to one skilled in the art at the time of the invention to modify Birze, such that wherein upon receipt of an answer message from the announcement server component, the call control component drops the answer message based on the call category, to provide means for starting the billing process once a calling party is connected to the called party (and not during call setup).

As per **claim 2,** Birze teaches claim 1, wherein the call terminates at the announcement server component and the called communication device, wherein the call control component accepts an answer message from the called communication device (C3, L35, to C4, L41 teaches the call connecting).

As per **claim 5,** Birze teaches wherein the call control component receives the call and <u>queries a home location register for an indication that the announcement server component</u>; call will employ the wherein the call control component <u>sets the call category for the call based on the indication from the home location register</u> (eg. ~~claim 44:~~ wherein the step of setting the call category for the call to indicate that the call terminates at the announcement server component prior to connection with the called communication device comprises the steps of: <u>querying a home location register for an indication of whether the call will employ the announcement Server Component</u>; determining from the indication that the call terminates at an announcement server component prior to connection with a called communication device; and setting the call category to a value that indicates the call terminates at the announcement Server Component) – see C4, L43 to C5, L19, which teaches detemining, in the MSC/HLR, that the caller requires a special ringtone.

As per **claim 6,** Birze teaches claim 1, wherein a calling communication device initiates the call to the called communication device, wherein the announcement server component comprises a customized ringback tone component;

wherein the call control component determines that the call meets one or more customized ringback tone criteria set by a user of the called communication device and sets the call category to indicate that the call terminates at the customized ringback tone Component (C4, L43 to C5, L19);

As per **claim 10,** Birze teaches wherein the call control component comprises a control subcomponent and a switching subcomponent, wherein the call category comprises a calling party category; wherein the control subcomponent determines that the call terminates at the announcement server component prior to connection with the called communication device; wherein the control subcomponent sends a call setup message to the switching subcomponent, wherein the control subcomponent sets the calling party category in the call setup message to a value that indicates that the call terminates at the announcement server component prior to connection with the called communication device (C4, L43 to C5, L19).

Allowable Subject Matter

Claims 3-4, 7-9, 11-12, 14 and 16 objected to as being dependent upon a

rejected base claim, but would be allowable if rewritten in independent form including all

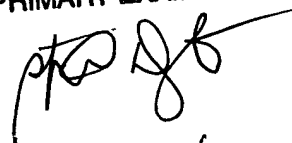of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Stephen M. D'Agosta whose telephone number is 571-

272-7862. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Bill Trost can be reached on 571-272-7872. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

STEVE M. D'AGOSTA
PRIMARY EXAMINER

3-22-06